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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/738,786

12/15/2000

Kevin McCombe

40101/01101

3798

30636 7590 01/15/2009
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EXAMINER

BAROT, BHARAT

ART UNIT

PAPER NUMBER

2455

MAIL DATE

DELIVERY MODE

01/15/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KEVIN McCOMBE and REMI COTE

Appeal 2008-0841
Application 09/738,786¹
Technology Center 2100

Decided: January 14, 2009

Before LANCE LEONARD BARRY, JEAN R. HOMERE,
and STEPHEN C. SIU, *Administrative Patent Judges*.

HOMERE, *Administrative Patent Judge*.

DECISION ON REQUEST FOR REHEARING
STATEMENT OF THE CASE

In a paper filed November 10, 2008, Appellants request
reconsideration under 37 C.F.R. § 41.52 from a Decision of the Board of

¹ Filed on Dec. 15, 2000. The real party in interest is Wind River Systems, Inc.

Patent Appeals and Interferences dated September 9, 2008 (Decision, hereinafter.) We have jurisdiction under 35 U.S.C. § 6(b).

In the Decision, the Board reversed the Examiner's rejection of claims 1 through 11 under 35 U.S.C. § 103(a), and rejected the claims under 35 U.S.C. § 112, second paragraph as being indefinite.

Appellants contend that the cited claims are not indefinite. (Req. Reh'g 2.) Particularly, Appellants argue that the Specification makes amply clear that the client process is part of the task process. Therefore, by killing the task process, the client process included therein is also killed (*Id.* at 2-3.)

We grant the Request.

Appellants' arguments are persuasive. We agree with Appellants the Specification supports that the client process is executed from within the client task. We further agree with Appellants that the Specification supports that the client task is restarted or killed when the client process therein is not fully executed within a predetermined time. We further agree with Appellants that one of ordinary skill in the art would have thereby ascertained from the Specification that by killing the client task, the client process included therein is also killed. Consequently, we agree with Appellants that the ordinarily skilled artisan would have been apprised of the scope of the cited claims.

Appeal 2008-0841
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DECISION

In light of the foregoing, we grant Appellants' Request for Rehearing. We also modify our prior Decision to withdraw the indefiniteness rejection against claims 1 through 11.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

REQUEST FOR REHEARING GRANTED

msc

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